THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21094 of 2005

O r d e r:

The petitioner's father while working as SHO in the Sub-Divisional Officer, BSNL, Nellore District, died in harness on 28.02.2001, leaving behind his wife, daughter and the petitioner. Pursuant to his death, the petitioner being the legal heir, made representation to the respondents to appoint him on compassionate grounds in Group-C post by relaxing the recruitment rules. The 2nd respondent vide proceedings dated 29.12.2003 informed the petitioner that the High Power Committee, which met on 19.12.2003, examined his case and rejected his request for appointment on compassionate grounds stating that the family is not in distress. The petitioner again made a representation to the respondents for reconsideration of his case, but the 2nd respondent again vide proceedings dated informed the petitioner that the High Power Committee, which met on 27.08.2004 re-examined his case in detail and rejected the request for compassionate grounds stating that the family is not in distress. Assailing the said orders, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that the father of the petitioner before his death was seriously ill, and his family had spent lot of amount for his treatment, and though the respondents after deducting all the dues, paid an amount of Rs.1,49,000/- RGDCRG (pensionary benefits), but the said amounts were used for discharging the loans taken by them for the treatment of the deceased. He submitted that since after the death of the father of the petitioner, the petitioner's family was in financial distress as there was no other

earning member than the deceased, the petitioner made a representations to the respondents to provide him suitable employment on compassionate grounds, but the 2nd respondent vide the orders impugned in the writ petition, informed the petitioner that the High Power Committee, examined and re-examined the case of the petitioner, and rejected his request for appointment on compassionate grounds stating that the family is not in financial distress, which is illegal and arbitrary. He thus prayed that the impugned order be set aside and the respondents be directed to provide the petitioner suitable employment on compassionate grounds.

On behalf of the respondents, the 2nd respondent filed counter. The learned Standing Counsel appearing on behalf of the respondents contended that the amounts payable to the family of the petitioner upon the death of his father were worked out to Rs.3,13,762/- and after deducting the CCS loan dues of Rs.93,984/-, they paid the balance amount to the petitioner's family. He submitted that the High Power Committee examined the request of the petitioner for compassionate appointment, based on objective assessment of the financial condition of the family i.e. his assets and liabilities, the size of the family, age of the petitioner and essential needs of the family and other factors, as provided in O.M. No.14014/6/94-Estt. (D), dated 09.10.1998 (Scheme for Compassionate Appointment under the Central Government), and rejected the request of the petitioner, and accordingly the

2nd respondent informed the petitioner vide the order impugned in the writ petition. He submitted that the petitioner's sister is married, and except the petitioner and mother, there is no other person in the family. The petitioner's mother at present is getting monthly pension of Rs.6,160/-, and the said amount is more than sufficient for the petitioner and his mother to lead a happy life, and therefore, the

petitioner cannot be allowed to contend that upon the death of his father, their family plunged into deep financial distress, and prayed for dismissal of the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-BSNL and perused the material on record, include the scheme for compassionate appointment under the Central Government.

The Government issued revised consolidated instructions, framing the Scheme for Compassionate Appointment under the Central Government, in O.M. No.14014/6/94-Estt. (D), dated 09.10.1998. The object of the scheme is to grant appointment on compassionate grounds to a dependant family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency. In fact, the High Power Committee constituted by the respondents examined and re-examined the request of the petitioner for compassionate appointment in the light of the above scheme, and rejected the request of the petitioner on the ground that the family of the deceased is not in financial distress.

The law is well settled that compassionate appointment cannot be claimed as a matter of right, but is granted to enable the family of the deceased to tide over the sudden crises that befalls on the death of the sole breadwinner.

The apex Court in **Shri Umesh Kumar Nagpal v. State of Haryana and others**[1], has noted the objects of granting compassionate employment, and they are:

(i) To enable the family to tide over the sudden crisis by the death of the sole

bread winner;
(ii) To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
II. Mere death of an employee in harness does not entitle his family to such source of livelihood.
III. The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
IV. The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
V . Consideration for compassionate employment is not a vested right to be exercised at any time in future.

In **General Manager (D & PB) & Ors. V. Kunti Tiwary & Anr.**[2], the apex Court held that in the matter of providing compassionate employment to the dependant of a deceased, the criteria of penury has to be applied, and only in cases where the condition of the family is "without any means of livelihood" and "living hand to mouth" that compassionate appointment was required to be granted. In a very recent judgment in **State Bank of India v. Jaspal Kaur**[3], the apex Court held that a major criterion while appointing a person on compassionate grounds should be the financial condition of the family the deceased person left behind.

Thus, from the law as settled above, it is clear that the while considering the grant of compassionate appointment, the financial destitution of the family has to be kept in mind. Therefore, it may be examined whether the High Power Committee of the respondents, was justified in rejecting the request of the petitioner for grant of compassionate appointment on the ground that the family of the deceased was not in financial distress.

Pursuant to the death of the father, as can be seen from the counter filed by the respondents and the material produced by them, the mother of the petitioner, which in fact, is not disputed by the

petitioner, in all an amount of Rs.3,13,762/- were arrived at towards terminal benefits of the deceased, and from out of the said sum an amount of Rs.93,984/- was deducted, towards liabilities of the deceased, and the balance amount of Rs. 2,19,778/- was paid to the wife of the deceased, namely the mother of the petitioner. Apart from the said sum, it is submitted by the respondents that the petitioner's mother was also sanctioned family pension, and that at present, she is getting an amount of Rs.6,160/-. The quantum of terminal benefits paid by the respondents to the wife of the deceased, and the amount of Rs.6,160/-, which she is now said to be getting towards family pension, gauged from the present day cost of living, cannot be said to be insufficient for a decent living of two persons, namely the petitioner and his mother, nor can he be allowed to contend that upon the death of their father, their family plunged into financial distress and that they are leading a life of "hand to mouth".

Though the petitioner contends that they have spent the amounts received for discharging the debts incurred by them for the treatment of their father, the fact remains, which is evident from the letter dated 09.03.2007, addressed by the 2nd respondent to the Standing Counsel, that upon verification by the Senior Accounts Officer, an amount of Rs.1.05,112/- was paid towards medical expenses of the deceased while he was undergoing treatment. The medical bills of the deceased having been defrayed by the Government, the petitioner cannot contend that they had spent the amounts received by them towards the terminal benefits of their father, for discharge of the loans taken by them for his treatment.

In the above view of the matter, no exception can be taken to the impugned orders of the 2nd respondent, communicating the decision of the High Power Committee, rejecting the request of the

petitioner for providing compassionate grounds stating that the family of the deceased is not in financial distress.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 22nd March, 2007.
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[1] 1994 (4) SCC 138

[2] (2004) 7 SCC 271

[3] 2007 AIR SCW 1044